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UNITED STATES ATTORNEY TIMOTHY J. HEAPHY

I. Introduction

Good morning and thank you all for being here today. My name is Tim Heaphy and I am the United States Attorney for the Western District of Virginia.

I asked all of you here today to talk about bankruptcy fraud, a persistent problem in this district and across the country. First - I'm here to announce the indictment of Roanoke businessman Roland Harry Macher, the owner of a chain of restaurants here and elsewhere, on bankruptcy fraud and tax evasion charges. I will detail the charges in the indictment against Mr. Macher which was returned last week and unsealed just yesterday.

I'm also here to talk about something broader than Mr. Macher's case - the formation of a multi-agency task force to investigate and prosecute additional instances of bankruptcy fraud. We have recently brought together a range of investigative agencies and secured their commitment to bring us cases in which people misuse the bankruptcy process by lying to the court. Fraud, unfortunately, continues to tarnish the integrity of the bankruptcy system.

II. Macher Case

First - the Macher case. Last week, a Federal Grand Jury sitting here in Roanoke returned a five-count, sealed indictment charging Roland Harry Macher with four counts of bankruptcy fraud and one count of tax evasion.

The indictment was unsealed yesterday when Mr. Macher was arrested by agents from the Internal Revenue Service Criminal Investigation branch and the Federal Bureau of Investigation.

The allegations in the indictment stem from Mr. Macher's

bankruptcy, which commenced in November of 2000 when he filed a personal bankruptcy petition here in the Western District of Virginia. In that filing, Mr. Macher, like every other person who files for bankruptcy, was required to report to the bankruptcy court all of his outstanding assets and liabilities. Mr. Macher, with the assistance of counsel, filed documents with the court which he represented were complete and accurate at the time of the filing.

In the indictment, the grand jury has alleged that the documents which Mr. Macher filed were false and misleading. More specifically, Mr. Macher failed to truthfully report the amount of equity he controlled in a number of rental properties in Roanoke, Virginia, and completely failed to disclose that he had any interest in several properties in Hilton Head, South Carolina. By failing to disclose the extent of his ownership of those properties, Mr. Macher committed fraud on the bankruptcy court. He also committed tax fraud, as he misled his largest creditor in the bankruptcy - the Internal Revenue Service.

The rental properties that Mr. Macher owned in Roanoke were

apartments located at 502-504 Day Ave., 645 Day Ave. And 518 Mountain Ave. In his November 2000 bankruptcy filing, Mr. Macher misrepresented the amount of mortgage liens which encumbered those properties, as well as their present value. His misleading filings made it appear as if the apartments were not worth as much to Mr. Macher as they actually were worth.

After his bankruptcy filing, Mr. Macher transferred the Roanoke rental properties to a nominee - someone who could then effectively cash them out and return the proceeds to Mr. Macher. The nominees ultimately obtained “cash out” mortgages on these properties - \$75,000 for the Mountain Ave. property, \$86,250 for the 645 Day Ave. Property and \$56,000 for the 502-504 Day Ave. Property. Again, the amounts obtained in these cash-out mortgages exceeded the amount of equity which Mr. Macher had reported in his bankruptcy filing.

In addition to the Roanoke rental properties, the indictment alleges that Mr. Macher completely failed to disclose his financial interest in properties he owned in Hilton Head, South Carolina. Specifically, 96

Matthews Drive, 7-A-4, 50-B-3, and 43-2-3 in Woodlake Villas in Hilton Head. In his bankruptcy filing, Mr. Macher simply omitted these properties, in direct violation of the requirement that he list any and all assets.

At a hearing held on his bankruptcy petition, Mr. Macher promised, under oath, that he would not dispose of any property without permission during his bankruptcy proceeding. However, between September 2005 and February 2007, he sold the three properties he owned in South Carolina - the three rental properties he had failed to disclose on his bankruptcy petition. He ultimately obtained cash when he sold those properties - \$152,000 for 43-C-3 of Woodlake Villas, \$143,600 for 50-B-3 of Woodlake Villas, and \$112,270 for 7-A-4 of Woodlake Villas. These sales were, of course, undertaken without the knowledge or consent of the court or Mr. Macher's creditors.

The indictment also alleges that Mr. Macher failed to disclose his financial interest in Spanky's Express and Spanky's of Morgantown, two businesses he once owned.

Mr. Macher used the bankruptcy proceeding, as well as other actions, to evade paying the tax liability he acknowledged in his bankruptcy filings. The IRS was Mr. Macher's largest creditor - filing a claim with the bankruptcy court for more than \$275,000 which Mr. Macher owed in back taxes. By concealing his interest in the rental properties in Roanoke and Hilton Head, Mr. Macher was able to conceal assets from the bankruptcy court and remove them from the reach of his creditors, including the IRS. The amount of money he was eventually required to pay the IRS was artificially low, as the court did not have information about the extent of Mr. Macher's ownership of real property. By concealing his assets from the bankruptcy court, Mr. Macher evaded the payment of federal taxes, as alleged in Count 5 of the indictment.

Now, I want to stress that while Mr. Macher has been indicted for these crimes, an indictment is simply a document that signifies that the Grand Jury has found probable cause the Mr. Macher committed the crimes alleged in the Indictment. Mr. Macher enjoys the presumption of

innocence and will have his day in court to answer these charges. As the indictment is pending and the charges have not yet been adjudicated, I can't say any more about those charges or go beyond the four corners of the charging document. There will be more to say about Mr. Macher's case, but the time for additional comments will have to wait until those charges have been resolved.

However, I would like to speak a little bit about bankruptcy fraud cases in general in this district and the formation of our new bankruptcy fraud task force, a first for this district.

III. Bankruptcy Fraud Task Force

One of the many responsibilities we have in the United States Attorney's Office is the prosecution of cases in which people abuse the bankruptcy system. In the Western District of Virginia, the bankruptcy court receives approximately 6,000-7,000 bankruptcy filings each year. While it is hard to estimate the amount of fraud within those filings, there is no question that a number of bankruptcy filers attempt to misstate the true value of assets, omit other pertinent information, and -

put simply - lie to the bankruptcy court.

Identifying and prosecuting these acts of fraud will require a team effort. Several weeks ago, officials from my office, the bankruptcy Trustee's office, the FBI and IRS got together and formed a new Bankruptcy Fraud Task Force. The basic idea behind the task force is simple. The members of the task force will meet on a regular basis and review instances of suspected bankruptcy fraud. They will assign investigative responsibility for those matters and bring substantiated instances of bankruptcy fraud to our office for prosecution in federal court.

Over time, the work of the Bankruptcy Fraud Task Force will do all it can to diminish the amount of fraud in the bankruptcy system. In a time when every agency is stretched very thin in terms of resources, the formation of this task force allows law enforcement to join forces and work more efficiently to help uncover instances of fraud more easily.

I am joined here today by some of the members of that task force who, along with investigators from their respective agencies, will be

investigating and prosecuting instances of bankruptcy fraud throughout the district.

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I am proud to be joined by each of these agencies. It is my hope that the task force they lead will have a significant impact and help ensure that the bankruptcy process is fair and equitable, as it is designed to be.

Our message today is clear. To all those individuals who are tempted to lie when they file for bankruptcy - think twice. Don't do it. Be aware from this point on that there is a group of dedicated law enforcement professionals watching you. We are aware of what you are doing and, in the instances where we find fraud, we will prosecute you.

Bankruptcy Fraud is a serious offense that has serious consequences for those who commit this crime. My office, along with the offices of all the agencies standing behind me today, will do whatever we can to ensure the bankruptcy system here in the Western

District of Virginia is as free from fraud as possible.

Thank you all for coming today and we will now answer any questions.